

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

UNITED STATES OF AMERICA,

v.

WILLIAM R. HUTSENPILLER,

Defendant,

CRIMINAL ACTION NO.  
2:17cr43

TRANSCRIPT OF PROCEEDINGS

Norfolk, Virginia

September 21, 2017

BEFORE: THE HONORABLE REBECCA BEACH SMITH  
Chief United States District Judge

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE

By: Alan Salsbury

Stephen Haynie

Assistant United States Attorney

Counsel for the United States

SHUTTLEWORTH, RULOFF SWAIN HADDAD & MORECOCK PC

By: Lawrence H. Woodward, Jr.

Counsel for the Defendant

1 (Hearing commenced at 2:01 p.m.)

2 THE CLERK: In case 2:17cr43, United States of  
3 America versus William R. Hutsenpiller.

4 Mr. Salsbury, Mr. Haynie, is the government ready  
5 to proceed?

6 MR. SALSBUY: We are ready. Good afternoon, Your  
7 Honor.

8 THE COURT: Good afternoon.

9 THE CLERK: Mr. Woodward, is the defendant ready to  
10 proceed?

11 MR. WOODWARD: Good afternoon, Your Honor. We are  
12 ready to proceed.

13 THE COURT: Good afternoon. Sir, are you William  
14 R. Hutsenpiller?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Have you reviewed your background  
17 presentence report with Mr. Woodward?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: You may be seated.

20 Counsel, I have reviewed the file, and I'll briefly  
21 review it here today before we proceed directly into the  
22 sentencing. This defendant pled guilty to count one of the  
23 single count criminal information on April 10, 2017.

24 Count one charges the defendant with being involved  
25 in a conspiracy to receive and accept gratuities as a public

1 official, in violation of Title 18 of the United States Code  
2 § 371.

3 The United States Magistrate Judge Lawrence R.  
4 Leonard accepted the defendant's plea, which was accompanied  
5 by a plea agreement and a statement of facts, both of which  
6 were filed in open court on April 10, 2017.

7 In the plea agreement the defendant has waived his  
8 right to appeal in Paragraph 5. I have reviewed the plea  
9 proceedings and the full file, and I find no reason not to  
10 accept the proceedings thus far and to adjudge the defendant  
11 guilty of the offense to which he pled.

12 The presentence report was prepared, and everyone  
13 has presented their position papers. There is an  
14 outstanding objection. The defendant and the United States  
15 object for different reasons to the enhancement for the role  
16 in the offense, and the Court will have to make a finding of  
17 fact in that regard.

18 There is also a motion by the United States for a  
19 downward departure under § 5K1.1 of the sentencing  
20 guidelines, and the Court also received an allocution letter  
21 which, obviously, the defendant can read or still make  
22 further allocution to the Court, and also four character  
23 letters. So those have all been made a part of the  
24 presentence report. They were with your position paper, and  
25 I would direct that they be made part of the presentence

1 report so that they follow the defendant through the system.

2 So that would bring us to the point of resolving  
3 the objection of enhancement for role in the offense. The  
4 defendant objects to the assessment of a three level  
5 enhancement for a managerial role in the offense, pursuant  
6 to United States Sentencing Guideline Section 3B1.1(b), and  
7 the United States objects to the same enhancement but argues  
8 that the defendant should receive a four level enhancement  
9 as a leader of the criminal activity.

10 You can go forward with that and any presentation,  
11 Mr. Salsbury.

12 MR. SALSBUURY: Thank you, Your Honor. Your Honor,  
13 Section 3B1.1(a) of the guidelines provides for a four level  
14 increase if the defendant was an organizer or a leader of a  
15 criminal activity that involved five or more participants or  
16 was otherwise extensive. We are prepared to present  
17 evidence, through a witness, showing that the criminal  
18 activity in this case did, indeed, involve five or more  
19 participants.

20 However, before doing that, our position is that  
21 the statement of facts, on its face, shows that the  
22 defendant was an organizer and leader of criminal activity  
23 that was extensive. If that is correct, then the  
24 enhancement applies on that basis, and there is no need to  
25 present evidence regarding the number of participants.

1           So my suggestion would be that the Court first hear  
2 argument and rule on whether the statement of facts on its  
3 face shows that the defendant was an organizer and leader of  
4 criminal activity and that that activity was extensive. If  
5 the Court were to agree with the government's position,  
6 there would be no need to present evidence on the number of  
7 participants.

8           THE COURT: I understand what you're saying. It's  
9 in the disjunctive as opposed to the conjunctive in the  
10 guidelines, so it's either five or more participants or  
11 otherwise extensive. There are two bases upon which to  
12 grant the enhancement under subsection (a).

13           MR. SALSBUURY: Right. We think the agreed  
14 statement of facts on its face shows that the four level  
15 enhancement applies.

16           THE COURT: All right. Of course, you understand  
17 that judges like to have as many grounds as possible upon  
18 which to make a ruling, if necessary, for future  
19 proceedings.

20           MR. SALSBUURY: Certainly, Your Honor.

21           THE COURT: You may proceed on both of those bases,  
22 but let me hear from Mr. Woodward.

23           MR. WOODWARD: Well, yes, Your Honor. I think the  
24 issue is slightly different. I certainly don't dispute  
25 Mr. Salsbury's rendition of what the guidelines say and what

1 the bases are. I think the real issue is whether or not my  
2 client was a leader, manager, or organizer, not the extent  
3 of the conduct or the number of participants. As you  
4 noticed in my position paper, Your Honor, this case is a  
5 little unusual. There is four people that are involved, and  
6 there are three different judges that have or will deal with  
7 this case. Judge Jackson had, I believe, Mr. Bricker, judge  
8 Allen had Mr. Deines, and I think Judge Allen has  
9 Mr. Mearing.

10 Our position is, is that clearly the four point  
11 enhancement would not apply. Mr. Mearing, if you look at  
12 those statements of facts, I think it's in Paragraph 6 of  
13 most of them, Bricker, Deines and Mearing were involved in  
14 committing government contractor fraud for a decade or more.

15 Mr. Hutsenpiller got involved in 2010 with those  
16 folks in something that had been going on since 2004, and he  
17 certainly was one of the tentacles of the octopus, he's  
18 accepted responsibility for that, and stands here today to  
19 be, you know, punished for that.

20 My position is, is that the issue is not whether  
21 the conduct was extensive. I would submit that the overall  
22 conduct was extensive. I mean, I'm not going to argue that  
23 point. I think the Court would probably not give me a lot  
24 of credibility if I did. I mean, Bricker and Deines,  
25 Bricker, I think, was found to have committed \$12 million of

1 fraud and Deines 7 million. It may be the opposite of that,  
2 and I think Mr. Mearing's statement of facts is up in the  
3 \$13 million range.

4 So the real issue, from my standpoint, Your Honor,  
5 is what was my client's role in the offense, not what the  
6 overall offense encompassed. Our argument would be that he  
7 pled guilty to a gratuities offense, 35 or \$36,000 worth of  
8 gratuities.

9 One of the things that the Court looks at under the  
10 application notes is what amount of the proceeds of the  
11 criminal activity did someone receive to determine if they  
12 are a leader, manager, or organizer. That would be our  
13 position, that he just doesn't qualify, that Mr. Mearing is  
14 the leader, manager, and organizer. Mr. Deines and  
15 Mr. Bricker, I realize the Court didn't have those cases.  
16 The government did not seek, the probation office did not  
17 seek, and they were not given any kind of role in the  
18 offense.

19 Now, Mr. Mearing, to be fair, he hasn't been  
20 sentenced yet, but when we were discussing this with  
21 probation, and they pointed out, and apprised me, even  
22 though I don't get those PSRs, that neither of those  
23 individuals -- one of whom was the accountant and one of  
24 whom, I believe, was the chief financial officer, if that's  
25 the right term, Mr. Deines, or the comptroller, I think he

1 was called, of the Global Industries.

2 So I also think that that enhancement should have  
3 with it an element of what's fair. For the government  
4 essentially to say that -- I mean, the most enhancement  
5 anybody can get under that guideline is four points. I  
6 don't know what Mr. Mearing is going to look like when he  
7 gets in front of Judge Allen, but the government's position  
8 is that my client is equal to Mr. Mearing in terms of that  
9 enhancement. I understand there can be more than one person  
10 that can have a leader or manager or organizer role.

11 THE COURT: Go through each one. So Mr. Bricker.

12 MR. WOODWARD: Yes, Your Honor.

13 THE COURT: I'm familiar with his sentencing, but  
14 just for our record, what was his role, from your opinion?

15 MR. WOODWARD: Mr. Bricker was the accountant and  
16 the owner of company A and company B. I don't know what  
17 they are, but to me Mr. Bricker was the person that,  
18 beginning in 2004 and continuing to 2014, funneled the money  
19 through his company for Global. I'm trying to be true to  
20 the statement of facts. I don't get, you know, all of the  
21 discovery that relates to Mr. Bricker, but that's what I  
22 understand his role to be based on the statement of facts,  
23 that he did not work for Global. He was an accountant that  
24 worked with Global and some of the contractors.

25 THE COURT: All right. He was the accountant for



1 companies A and B?

2 MR. WOODWARD: Yes, ma'am. Was an accountant and  
3 was also an owner of company A and B.

4 THE COURT: All right.

5 MR. WOODWARD: Which I don't know what company A  
6 and B are, other than they were companies that, as I  
7 understand from the statement of facts, were used to  
8 perpetuate or perpetrate the fraud beginning in 2004.

9 THE COURT: All right. So that's Mr. Bricker.

10 MR. WOODWARD: Yes, Your Honor.

11 THE COURT: All right. How about Mr. Deines?

12 MR. WOODWARD: Mr. Deines was the corporate  
13 comptroller of firm G, which we now know that firm G is  
14 Global Enterprises. He was the person, as I understand it,  
15 that handled and directed all the money. He worked for  
16 Mr. Mearing. Mr. Mearing was the owner. So he was not an  
17 owner of the company, but he was the comptroller who  
18 directed and managed these contracts and accounts on which  
19 the fraud occurred, the various government contracts.

20 THE COURT: All right. Mr. Mearing?

21 MR. WOODWARD: Mr. Mearing, Your Honor, was the  
22 owner of Global Enterprises. He has pled but not yet been  
23 sentenced. He became the sole owner in 2007, according to  
24 his agreed statement of facts. Even before he became the  
25 owner, just says he began employment in Global at 2002, was

1 the president, chief executive officer, and then owner by  
2 2007. He set up the fraud, for lack of a better word, on a  
3 number of different contracts.

4 THE COURT: Can you wait just a minute, please?

5 MR. WOODWARD: Yes, ma'am. So if the Court looks  
6 at those statements of facts, the stuff that my client pled  
7 guilty to that's contained in my client's statement of facts  
8 is one part of this overall scheme that began.

9 My client, what the criminal conduct that he got  
10 involved in began in 2010 and went till late '13 or '14, I  
11 believe. But Deines, Bricker and Mearing all pled guilty  
12 and agreed that they had been engaged in government  
13 contractor fraud in things that both involved and did not  
14 involve Mr. Hutsenpiller beginning in 2004 and continuing  
15 until 2014.

16 THE COURT: Well, let's just focus on this  
17 defendant, his involvement in 2010. We are not talking  
18 about prior to any alleged involvement. We are talking  
19 about the statement of facts.

20 You would agree with that, Mr. Salsbury, we are  
21 focusing on the period 2010 to 2014?

22 MR. SALSBUY: Well, I would, Your Honor. In fact,  
23 Mearing pled to an entirely separate fraud.

24 THE COURT: I know, but I'm talking about for this  
25 defendant.

1 MR. SALSBUURY: That's correct.

2 THE COURT: I'm going to let you respond to what he  
3 is saying, but for this defendant, I want to make it clear  
4 so that someone doesn't go back and say we focused on the  
5 wrong time period. The time period that we are looking at  
6 for this defendant's actions for this enhancement and for  
7 sentencing are the time period when he was involved with  
8 this conspiracy or these activities, which would be starting  
9 in or around 2010 until in or around September of 2014.  
10 That's what the statement of facts indicates. Everybody's  
11 agreed that's the time period we are looking at for this  
12 defendant?

13 MR. WOODWARD: The defense agrees, Your Honor.

14 MR. SALSBUURY: That's correct, Your Honor.

15 THE COURT: That's all I wanted to straighten for  
16 the record.

17 MR. WOODWARD: So, Your Honor, again, I'm not  
18 obviously wanting to waste the Court's time or have evidence  
19 if the Court has the statement of facts. That's my  
20 argument, whether the Court agrees or doesn't agree, but  
21 that this has to be looked at in context.

22 Certainly, my client has to be looked at based upon  
23 what he did, and Mr. Salsbury, again, is true that  
24 Mr. Mearing pled guilty to some different frauds, but  
25 Mr. Hutsenpiller is mentioned at Paragraph 6 in

1 Mr. Mearing's statement of facts as being a GS-15 in the  
2 Navy.

3 So I don't think it's contextually accurate to say  
4 that they're completely unrelated. Clearly, in my client's  
5 statement of facts, company G, and you see in his statement  
6 of facts, PAM is Phillip A. Mearing or PAM is Mr. Mearing.  
7 They just didn't put his name in there because he hadn't  
8 pled at that point.

9 But, certainly, Your Honor, we agree we are not  
10 backpedaling from the statement of facts. It says what it  
11 says, and I've seen the government's paper. We are  
12 certainly not saying that everything in there is not true  
13 and correct because it is. But it's just a question of in  
14 what context the Court looks at all of this, and as I think  
15 just a matter of fundamental fairness that, you know, why my  
16 client would be made to get the highest enhancement when two  
17 people got none.

18 THE COURT: I think it depends, Mr. Woodward,  
19 though, on what their involvement was at the time they were  
20 in this matter, and it's not all *vis-à-vis* because different  
21 people were involved at different times. The individuals  
22 you've indicated were involved, some with different  
23 companies, some with different time periods. What I'm  
24 hearing you say is that you don't contest that the  
25 enhancement would be appropriate if you look at it from the

1 standpoint of it being otherwise extensive criminal activity  
2 that would mandate the enhancement.

3           What you're saying is that the activities of your  
4 client in this otherwise extensive activity does not mandate  
5 the enhancement. So you're not contesting that the  
6 enhancement would apply from the standpoint of it being an  
7 otherwise extensive criminal activity during the period that  
8 your client was involved?

9           MR. WOODWARD: That's absolutely correct, Your  
10 Honor. I think that it would be under the definition  
11 otherwise extensive, but not everyone that's involved in  
12 something that's otherwise extensive gets the enhancement.  
13 Otherwise extensive is something that's meant to give the  
14 Court or the government another option if there is not more  
15 than five people.

16           But as the Court's well aware, there can be  
17 conspiracies with dozens of people, and not everybody that's  
18 involved is a leader, manager, or organizer. Just like  
19 there could be a conspiracy with two or three people that  
20 was an extensive conspiracy, but the Court still has to look  
21 at the role of each individual as to whether or not, within  
22 that extensive activity, they were leader, manager, or  
23 organizer. So I agree that that is my position.

24           It's not the nature of the activity, it's the  
25 nature of my client's involvement that I'm arguing.

1 THE COURT: Now, in the statement of facts, as I  
2 understand it, this defendant directed firm T?

3 MR. WOODWARD: Which paragraph, Your Honor?

4 THE COURT: It is in the statement of facts, is a  
5 summary at Page 7.

6 MR. WOODWARD: Paragraph 8, I see it.

7 THE COURT: Paragraph 7 through 11, is what I'm  
8 going to generally refer to.

9 MR. WOODWARD: Yes, ma'am.

10 THE COURT: The United States has pointed it out in  
11 its position paper that your client, through this statement  
12 of facts, directed firm T to accept Global as its main  
13 subcontractor, directed firm T to pass 5.1 million of  
14 unexpected government funds to Global, discussed using 2.4  
15 million of those funds to employ him at Global, and  
16 requested that Global provide him with various items of  
17 value and services for his personal use.

18 So the role, as you say, there can be any number of  
19 managers and leaders in an enterprise.

20 MR. WOODWARD: I agree.

21 THE COURT: It was what was his role and did that  
22 role in what he did constitute him being a manager and a  
23 leader. So, consequently, what they're suggesting, and as I  
24 understand the statement of facts admits, is that it was his  
25 direction of firm T to accept Global as its main contractor

1 and then directing firm T to pass a larger amount of money  
2 and then getting employment at Global.

3 In other words, it's his activities while he was  
4 involved from 2010 to 2015. I want to make that clear.  
5 It's his involvement, not somebody else's involvement. We  
6 are not looking at it *vis-à-vis* somebody else's. It's his  
7 involvement, was he a manager or a leader?

8 So that is what I think is the argument. I think  
9 the Court is going to need to hear evidence, Mr. Salsbury,  
10 because if he directed these people, what did he direct them  
11 to do? Otherwise extensive is a nebulous term, and what  
12 Mr. Woodward is going to argue now, and perhaps later, is  
13 simply that, yes, the whole enterprise, the whole activity  
14 was otherwise extensive, and my client was only involved in  
15 this segment of it, and this is inherently unfair that he is  
16 getting this enhancement when other people haven't.

17 That is, in my mind, diverting the argument from  
18 the point of this individual's involvement during this time  
19 period and what he did in terms of directing firm T and what  
20 he did at Global and *vis-à-vis* the people who were doing it.  
21 I think the people that he is directing and having them be  
22 in this activity is very important to the Court's  
23 determination of what his role was.

24 MR. SALSBUURY: May I respond, Your Honor?

25 THE COURT: Yes.

1 MR. WOODWARD: Your Honor, just before  
2 Mr. Salsbury, I do, of course, agree that that's what the  
3 statement of facts says. We have stipulated that those were  
4 his activities, so we don't take any issue with that. I  
5 would want to point out, before I give up the podium, that  
6 not everybody can be a leader, manager, or organizer.

7 THE COURT: I didn't say everybody. I said more  
8 than one person.

9 MR. WOODWARD: More than one.

10 THE COURT: I did not say that everybody could be a  
11 leader or a manager. My words were more than one  
12 individual.

13 MR. WOODWARD: I wasn't suggesting the Court had  
14 said that. I just wanted to make that point.

15 THE COURT: All right.

16 MR. SALSURY: Your Honor, just to clarify matters  
17 from the government's point of view before I put on  
18 evidence, being an organizer or leader gives you the four  
19 points. Manager or supervisor gives you the three points,  
20 as I read 3B1.1.

21 So the government's position is that this defendant  
22 was an organizer or a leader in the criminal activity to  
23 which he has pled guilty and which is set forth in the  
24 statement of facts. For the reasons you mentioned, which  
25 are contained in our position paper beginning at Page 3,



1 that using the word direct, we are obviously using it  
2 somewhat as a euphemism for strong-arming, strong-arming the  
3 prime contractor to agree to use a particular subcontractor  
4 Global and then causing those unexpected government funds to  
5 remain with Global so that this defendant could use them for  
6 various purposes, including funding what at that time was  
7 his anticipated retirement.

8 It was this defendant -- it's all in the statement  
9 of facts -- who made several requests that Global provide  
10 him with various items of value and services for his  
11 personal use, which Global purchased with those unexpended  
12 government funds, and that he directed all this, as set  
13 forth in the statement of facts, and now we have a  
14 concession by the defense that the activity was, indeed,  
15 extensive.

16 I will tell the Court, Mr. Deines and Mr. Bricker  
17 did not plead to the offenses that this defendant did or to  
18 the relevant conduct regarding the unexpended government  
19 funds. They pled to other criminal activity. Mr. Bricker  
20 and Mr. Deines were not regarded by the government as an  
21 organizer, leader, or manager or supervisor. That's why  
22 they didn't receive an enhancement under 3B1.1. There is  
23 nothing fundamentally unfair, as contended by Mr. Woodward.

24 The evidence we would put on, Your Honor, that I  
25 have prepared for, regards whether there are five or more

1 participants, which is the alternative basis for the  
2 application of the four level enhancement. I could  
3 potentially ask this witness, who's an agent, about  
4 Mr. Hutsenpiller and the activities that he directed, but,  
5 frankly, it's all set forth, as you've noted, in the  
6 statement of facts.

7           It's just, to me, beyond doubt that, based on the  
8 face of the statement of facts and everything that the  
9 defendant has agreed that he directed, that he's an  
10 organizer or leader. So, again, my point is, with the  
11 defense's concession that we have extensive criminal  
12 activity, and with all the various things that the defense  
13 agrees in the statement of facts that the defendant  
14 directed, the four level enhancement applies because he's  
15 most definitely an organizer or leader.

16           But if the Court does want, I'll present evidence  
17 on the other basis for the application of the four level  
18 enhancement, which is five or more participants.

19           THE COURT: Well, if there are five or more  
20 participants, and there is some indication of what they were  
21 doing, *vis-à-vis* what this defendant was doing, that would  
22 be important to the Court in deciding, because, first of  
23 all, he objects. I know manager is the three points, and  
24 you wanted it under (a) as basically an organizer or leader.  
25 He's been assessed three points. You are arguing for four

1 points. You are arguing him being enhanced as basically an  
2 organizer or a leader under 3B1.1(a), and he's arguing the  
3 enhancement is under (b) in the determination, and he's  
4 arguing for no enhancement.

5 I also, though, have a question ultimately of the  
6 acceptance of responsibility because if he's denying and  
7 saying I was not, and this is fact-based, this is a  
8 fact-based determination that a Court has to make,  
9 fact-based determination on whether you have any  
10 participants, otherwise extensive, what the role was, if the  
11 Court is making factual determinations, and the individual  
12 is saying no, then I'm not sure that acceptance of  
13 responsibility is appropriate. I may have missed it. Did  
14 you actually make your motion for the third point?

15 MR. SALSBURY: I believe we did.

16 THE COURT: I know they included it in there, but I  
17 haven't granted that motion for the third point. So I have  
18 not granted a motion for a third point for acceptance of  
19 responsibility. If someone backs away, it is ultimately for  
20 the Court to determine whether or not, A, the individual  
21 gets the two points in terms of their guideline  
22 calculations; and, B, whether the Court grants the motion  
23 for the third point.

24 If someone is contesting what their role was, well,  
25 then if the Court finds otherwise, is not fully and

1 completely accepting responsibility for their criminal  
2 actions. I'm going to make that clear up front, that you  
3 can't have it all different ways. You can't say give me all  
4 my points for acceptance of responsibility, but, by the way,  
5 I really wasn't a manager or a leader or whatever.

6 Then maybe the Court rules otherwise, and they keep  
7 all their acceptance of responsibility points. But I want  
8 to make that clear before we start into evidence. I do want  
9 evidence.

10 MR. WOODWARD: May I be heard real quick before the  
11 evidence, Your Honor?

12 THE COURT: Briefly.

13 MR. WOODWARD: I just wanted the Court to be clear.  
14 I'm trying to make a legal argument.

15 THE COURT: It is not a legal argument. It is  
16 factually based. The guidelines say that I have to  
17 determine, based upon the facts before the Court, whether  
18 someone was a manager, a leader, or a supervisor or an  
19 organizer of a criminal activity. In this case they are  
20 saying involved five or more participants or was otherwise  
21 extensive, and I'm going to have to make a factual  
22 determination of that.

23 You are contesting that determination. It is not a  
24 legal determination. It is a factual determination.

25 MR. WOODWARD: May I respond, Your Honor?

1 THE COURT: Yes.

2 MR. WOODWARD: What my understanding, I decided to  
3 make this objection, not Mr. Hutsenpiller.

4 THE COURT: No. I want to interject here for an  
5 important reason. You are his counsel.

6 MR. WOODWARD: I understand.

7 THE COURT: You make decisions in conjunction with  
8 him. So you are his counsel, and whatever you represent to  
9 the Court is his decision, not just your decision. You make  
10 a decision. We are not going to go down that road that its  
11 your decision and not his decision, so then he's not held to  
12 the arguments and the decisions of counsel. Because he is  
13 held to the arguments and the decisions of counsel.

14 MR. WOODWARD: Yes, Your Honor. I understand.  
15 Maybe that was unartful. My argument, the argument I'm  
16 trying to make, is not that he didn't engage in any of the  
17 conduct that is in the statement of facts or that the  
18 government has said he engaged in. There were more than  
19 five people involved. I don't think there is any question  
20 about that.

21 I, perhaps, unartfully was trying to make the  
22 argument that even if all that's factually true, it doesn't  
23 qualify legally as being -- certainly the four point  
24 enhancement and/or the three. So, again, my argument is not  
25 on the facts. My argument is if the Court believes all

1 those facts, which they are stipulated to, they are in the  
2 statement of facts, this is what he did, I think in all of  
3 these enhancements, first the Court finds the facts which  
4 are uncontested here, and then my belief is, and always has  
5 been, lawyers make legal arguments about what the import of  
6 those facts are *vis-à-vis* the guidelines.

7 That's what I'm attempting to do, not to contest  
8 any facts. I agree that it was extensive. I agree that  
9 Mr. Salsbury can submit evidence that there were more than  
10 five people that were involved. My only argument is, is if  
11 you take what Mr. Hutsenpiller did, and Mr. Salsbury is  
12 right, we stipulated that he directed this, he directed  
13 that, he did what he did, that in the context of this case,  
14 he shouldn't get the enhancement. But I certainly, he's not  
15 and I'm not trying in any way to not accept responsibility.  
16 I think the Court, once you find the facts, has to make a  
17 legal determination what the import of those facts are.

18 We are not contesting any facts. I'm finished,  
19 Your Honor.

20 THE COURT: All right. Well, the way the Court  
21 looks at a statement of facts, the statement of facts is the  
22 floor. It is not a ceiling. A statement of facts is a  
23 document that is submitted to the Court and filed under  
24 oath, and a defendant obviously cannot back away, or they  
25 can, but if they do, then there are issues over the plea and

1 other matters.

2 The statement of facts is a floor. It is not a  
3 ceiling. There is an enhancement here based on matters that  
4 are outside of the statement of facts. So I'm going to take  
5 evidence. If this objection is fair, I will find full  
6 facts, and I have made the Court's position clear.

7 It's the Court's opinion, whether someone is a  
8 manager or supervisor or leader and the role that they  
9 played is based on facts, the facts of the case, the facts  
10 that everyone knows. The Court only has the statement of  
11 facts and the PSR. There is an objection, and if there is  
12 going to be a persistence in that objection, based upon the  
13 facts that everybody knows what they are at this point, the  
14 defendant, and the attorneys, I'm going to take evidence and  
15 I'm going to make that determination. So go forward with  
16 your evidence, Mr. Salsbury.

17 MR. SALSBUY: The government calls Dan Lanter,  
18 L-a-n-t-e-r.

19 MR. WOODWARD: Your Honor, may I address the Court?  
20 I just consulted with Mr. Hutsenpiller, and he's directed  
21 me, I agree that he should withdraw his objection. I can't  
22 withdraw the government's objection, but we would withdraw  
23 our objection to the presentence report.

24 THE COURT: All right. We need to place the  
25 defendant under oath because I'm going to verify that that's

1 his decision.

2 MR. WOODWARD: I understand, Your Honor.

3 THE COURT: We need to place the defendant under  
4 oath.

5 (Defendant was sworn.)

6 THE COURT: Mr. Hutsenpiller, if you would please  
7 come up to the podium with Mr. Woodward.

8 Mr. Hutsenpiller, you have heard the discussions  
9 here in court today about your role in the offense, have you  
10 not?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Also, you understand that there was an  
13 objection filed by you or on your behalf that there be no  
14 enhancement for any type of managerial role in the offense,  
15 that you were given a three level enhancement in the  
16 presentence report for your managerial role in the offense  
17 and that you have filed an objection to that. Do you  
18 understand?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Your attorney has represented that  
21 after discussion with you that you wish to withdraw that  
22 objection; is that correct?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Do you have any questions about  
25 withdrawing that objection?



1 THE DEFENDANT: No, ma'am.

2 THE COURT: Have you discussed it with  
3 Mr. Woodward?

4 THE DEFENDANT: Yes.

5 THE COURT: Mr. Woodward, have you discussed it  
6 with the defendant?

7 MR. WOODWARD: I have, Your Honor.

8 THE COURT: All right. Do you have any questions?

9 THE DEFENDANT: No.

10 THE COURT: Do you have anything further you want  
11 the Court to review with him?

12 MR. WOODWARD: No, ma'am.

13 THE COURT: Mr. Hutsenpiller, do you still withdraw  
14 the objection?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: All right. Wait just a moment.  
17 Mr. Salsbury wants a word before I make any ruling.

18 MR. SALSURY: Is the defendant agreeing with the  
19 government's position that the four level enhancement  
20 applies?

21 THE COURT: No. As I understand it, at this  
22 juncture, what I heard was he is withdrawing his objection  
23 to the three level enhancement in the PSR and in the  
24 guideline calculation. He is accepting the guidelines as  
25 calculated, including the three level enhancement. Is that

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1 correct, Mr. Woodward?

2 MR. WOODWARD: That's correct, Your Honor.

3 THE COURT: Is that correct under your  
4 understanding, Mr. Hutsenpiller?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Then I accept the withdrawal of the  
7 defendant's objection to the three level enhancement under  
8 the United States Sentencing Guideline Section 3B1.1(b).  
9 You can be seated.

10 All right, Mr. Salsbury.

11 MR. SALSBUURY: The government calls Dan Lanter.

12 (Witness was sworn.)

13 DAN LANTER, called by the Government, having been  
14 first duly sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. SALSBUURY:

17 Q. Please state your name and occupation.

18 A. My name is Dan Lanter. I'm a special agent with the  
19 Defense Criminal Investigative Service.

20 Q. Agent Lanter, have the activities of William Hutsenpiller  
21 and others been the subject of a joint investigation by the  
22 Defense Criminal Investigative Service, the Naval  
23 Investigative Service, and the FBI?

24 A. Yes, sir, it has.

25 Q. Are you one of the investigating agents?

1 A. Yes, sir, I am.

2 Q. This has been a long-term investigation; is that correct?

3 A. Yes, sir, it has.

4 Q. When did it begin?

5 A. The investigation began in approximately April 2011.

6 2012 I came onto the case and have been on it ever since.

7 Q. Are you familiar with the criminal information and  
8 statement of facts filed in this case against

9 Mr. Hutsenpiller?

10 A. Yes, sir, I am.

11 Q. Now, according to that statement of facts, there are two  
12 areas of criminal activity that Mr. Hutsenpiller and  
13 co-conspirators engaged in. One was a conspiracy to provide  
14 illegal gratuities to Mr. Hutsenpiller; is that correct?

15 A. Yes, sir.

16 Q. And the other was to direct a government contractor to  
17 use Global Services Corporation, which was owned by  
18 co-conspirator Phillip Mearing, as a subcontractor for the  
19 purpose of retaining millions of dollars of unexpended  
20 government funds that should have been returned to the  
21 government thereby permitting Mr. Hutsenpiller to have access  
22 to Global and those funds; is that correct?

23 A. Yes, sir, it is.

24 Q. Phillip Mearing and Kenneth Deines, who was then the  
25 corporate controller of Global, are named in the statement of

1 facts as conspirators in the scheme to provide illegal  
2 gratuities to Mr. Hutsenpiller; is that correct?

3 A. Yes, sir, it is.

4 Q. And Mr. Mearing is also named in the statement of facts  
5 as a conspirator in the other scheme to have Global retain  
6 unexpended government funds that should have been returned to  
7 the government, correct?

8 A. Yes, sir.

9 Q. Did your investigation reveal the participation of other  
10 conspirators in one or both of those schemes?

11 A. Yes, sir, it did.

12 Q. Specifically, did you investigate the activities of the  
13 following individuals: Joe Olszewski, Corey Creek, Steve  
14 Parisi and Sigfredo Laluz?

15 A. Yes, sir, I did.

16 THE COURT: Can you repeat those names again,  
17 please.

18 MR. SALSURY: I will. Joe Olszewski. Would you  
19 spell the last name.

20 THE WITNESS: O-l-s-z-e-w-s-k-i.

21 BY MR. SALSURY:

22 Q. All right. Corey Creek; is that correct?

23 A. Yes, sir.

24 Q. Steve Parisi?

25 A. Yes, sir.

1 Q. How do you spell Parisa?

2 A. P-a-r-i-s-i.

3 Q. And Sigfredo Laluz?

4 A. Yes.

5 Q. And how do you spell both his names?

6 A. S-i-g-f-r-e-d-o, L-a-l-u-z.

7 Q. All right. In the course of your investigation, did  
8 those individuals make statements to you or other agents?

9 A. Yes, sir, they did.

10 Q. And did you also review documents as part of your  
11 investigation?

12 A. Yes, sir.

13 Q. What sort of documents?

14 A. Government contracts, bank records, e-mails, both from  
15 personal e-mail accounts and government e-mail accounts,  
16 business records from companies that were involved, invoices,  
17 things of that nature.

18 Q. I'm going to ask you to summarize what your investigation  
19 revealed regarding the activities of each of these four  
20 individuals in one or both of the illegal schemes that we  
21 mentioned. First, let me ask you about Joe Olszewski. Did  
22 he participate in the scheme to have Global retain unexpended  
23 government funds that should have been returned to the  
24 government?

25 A. Yes, sir, he did.

1 Q. All right. Tell the Court what that was about.

2 A. Okay. On Joe Olszewski was a former government employee.  
3 Upon his retirement he went to work for a contractor called  
4 Blanchard and Associates. As a contractor for Blanchard and  
5 Associates, he worked directly for William Hutsenpiller. In  
6 2008 Joe Olszewski introduced Mr. Hutsenpiller to Ken Deines  
7 and Phil Mearing. At that time an agreement was reached  
8 between the individuals that William Hutsenpiller would help  
9 steer government contracts to Global Services Corporation,  
10 and Global Services would hold unexpended funds in an account  
11 at Global.

12 Joe Olszewski described this as the cottage  
13 industry, the scheme and the participants, and the way that  
14 funds would be put into this reserve account would be through  
15 false claims or through fees charged on contracts that  
16 weren't -- the sponsors were not aware of. This began in  
17 2008. The first deposit into the reserves, which went by  
18 many names, the J-O-R, the JOR Reserves, that was made in  
19 November of 2008.

20 Global was at that time a subcontractor for VSE  
21 Corporation, a company out of Alexandria, Virginia. That  
22 contract expired in 2010. When that contract expired, the  
23 Naval Ship Support Activity, where Mr. Hutsenpiller worked,  
24 awarded another contract to a company called TransTecs, which  
25 was based in Wichita, Kansas. In an interview with Joe

1 Olszewski, he relayed that this development was very  
2 disturbing to himself and Mr. Hutsenpiller because Global was  
3 no longer on a contract where they could direct money to  
4 Global to build the reserves.

5 Mr. Olszewski relaid that in mid-March of 2010, he  
6 had a meeting with Mr. Hutsenpiller where they discussed this  
7 issue and Mr. Hutsenpiller's desire to have Global added on  
8 to the Transtecs contract as a subcontractor.

9 Q. Is Transtecs the company referred to in the statement of  
10 facts as Firm T?

11 A. Yes, sir, it is.

12 Q. All right. They discussed various ways to force  
13 Transtecs to accept Global as a subcontractor, and one of the  
14 options mentioned by Mr. Hutsenpiller was that they could  
15 cancel the contract and Transtecs wouldn't get any money.

16 On March 18th, 2010, there was a meeting on the Navy  
17 yard of Navy contracting personnel that Mr. Hutsenpiller was  
18 present at, along with the owner and the project manager of  
19 Transtecs. During that meeting, according to an interview  
20 with the owner of Transtecs, he was asked did he intend to  
21 subcontract on this contract, to which he replied negatively,  
22 and the owner in his interview stated that Mr. Hutsenpiller  
23 made a comment to the effect of, well, let's hold on to that  
24 answer.

25 So following that meeting, the owner and the project

1 manager were invited into Mr. Hutsenpiller's office. Joe  
2 Olszewski was present at this meeting, and Joe Olszewski  
3 relayed that the conversation that he and Mr. Hutsenpiller  
4 had the previous day about coercing Transtecs to take on  
5 Global as a subcontractor, those details relayed to Transtecs  
6 that the contract could be canceled if they didn't agree to  
7 go along.

8 Over the next month until May 3rd of 2010, there are  
9 various meetings held that Mr. Hutsenpiller was present for  
10 or not present for, but other individuals within this  
11 agreement, which resulted in Transtecs finally agreeing to  
12 take on Global as a subcontractor.

13 THE COURT: Excuse me. Transtecs is Firm T?

14 THE WITNESS: Yes, ma'am. Transtecs is Firm T.

15 THE COURT: Referred throughout the PSR. So that's  
16 what we've been referring to in the statements of facts and  
17 the PSR as Firm T as Transtecs?

18 THE WITNESS: Transtecs, yes, ma'am. I apologize.

19 THE COURT: That's just me clearing the record.

20 THE WITNESS: Okay. Once Global was accepted by  
21 Transtecs, the cottage industry could continue and did  
22 continue. Global submitted false claims that resulted in  
23 government money being put into the reserves that could be  
24 used later by William Hutsenpiller, among other schemes that  
25 put money into the reserves.



1 BY MR. SALSBURY:

2 Q. And it was Mr. Hutsenpiller at this initial meeting with  
3 Transtecs when Transtecs said they weren't going to use the  
4 subcontractor, he said, hold on to that answer?

5 A. That is what the owner of Transtecs reported to us in the  
6 interview, yes, sir.

7 THE COURT: Who is that owner?

8 THE WITNESS: His name is Dr. Godwin Opara.

9 BY MR. SALSBURY:

10 Q. And then based on what you've testified in accordance  
11 with the statement of facts, Mr. Hutsenpiller was a primary  
12 participant in forcing Transtecs to take on Global as a  
13 subcontractor?

14 A. Yes, sir. Starting from the beginning when the contract  
15 was awarded, Mr. Hutsenpiller immediately -- he found out on  
16 March 5th of 2010 that the contract had been awarded to  
17 Transtecs. That day he contacted Phil Mearing to tell him  
18 that Transtecs was going to win the contract. They set up a  
19 meeting where Mr. Mearing, his wife, and Mr. Hutsenpiller and  
20 his wife would meet ten days later to discuss.

21 The meeting happened on the 18th at the Navy base,  
22 and then on the 30th of March of 2010, Mr. Olszewski and  
23 Mr. Hutsenpiller both traveled to Fayetteville, where Global  
24 was headquartered, to discuss how the contract would be run  
25 and how Global would participate in it, and in the interview

1 Mr. Olszewski again brought up at that time Mr. Hutsenpiller  
2 had talked about cancelling the contract.

3 Over the next month of April, there were various  
4 meetings that were called by Mr. Hutsenpiller that involved  
5 Navy personnel which were held on the Navy base.

6 THE COURT: We are still in what year now?

7 THE WITNESS: We are still in 2010, ma'am.

8 THE COURT: All right.

9 THE WITNESS: That were held with Naval personnel  
10 and the contracting personnel on the Navy base early in the  
11 morning, and then in the afternoon Mr. Hutsenpiller called  
12 meetings with the subcontractors to be held at Global so  
13 they could discuss the scheme away from the government  
14 folks.

15 Mr. Hutsenpiller played a key role in getting  
16 Global onto this contract. During e-mail review -- well,  
17 let me back up. Global, Dr. Opara first met the Global  
18 representatives on April 12th of 2010, according to his  
19 interview. E-mail review showed that on April 6th of that  
20 same year, so six days prior to even meeting, Global  
21 personnel were drawing up a subcontracting agreement to work  
22 with Transtecs before it even met the company, and during  
23 the search warrant we found notes with William's name  
24 written at the top and all kinds of things to be put into  
25 the subcontracting agreement.

1           So from the very beginning Mr. Hutsenpiller played  
2 an instrumental role in working with Global to get onto the  
3 Transtecs contract so they could continue the cottage  
4 industry.

5           THE COURT: William being William Hutsenpiller?

6           THE WITNESS: Yes, ma'am.

7 BY MR. SALSURY:

8 Q. Still, on Mr. Olszewski, did he participate in the scheme  
9 to provide Mr. Hutsenpiller with illegal gratuities, and as  
10 you answer that question, also indicate how Mr. Hutsenpiller  
11 himself participated in that scheme.

12 A. Yes, sir. According to the interview with Mr. Olszewski,  
13 he stated that Mr. Hutsenpiller would find a particular item  
14 that he wanted, an iPad, a new phone, Bose headphones,  
15 learning thermostat, were just some of the items that we  
16 found documents for.

17           So Mr. Hutsenpiller would make that request, and  
18 then that information would go to Corey Creek or Steve  
19 Parisi, who would conduct market research to figure out how  
20 much that cost, the best place to get it. That information  
21 would be sent to Joe Olszewski who would then provide it to  
22 Ken Deines at Global Services. Ken would create a purchase  
23 order to procure those items, and the funding for those items  
24 was removed from this reserve account at Global, and then the  
25 items that were procured were sent to Steve Parisi in

1 Florida.

2 Steve Parisi had a technical background, an IT  
3 background, so items like computers or iPhones, Mr. Parisi  
4 took time to set the items up, and then he would ship them to  
5 Virginia here to i-Mazing, which is a contractor in Virginia  
6 Beach where Corey Creek worked, or to the Global Service  
7 office in Chesapeake where either Corey Creek would pick the  
8 items up or they could be delivered to William by Global  
9 Chesapeake personnel.

10 THE COURT: Let me go back just for a moment. You  
11 mentioned a meeting that was set up with Mr. Hutsenpiller  
12 and his spouse.

13 THE WITNESS: Yes, ma'am.

14 THE COURT: If I understand it, Mr. Hutsenpiller  
15 was a civilian GS-15 employee, the head comptroller of the  
16 Norfolk Ship Support Activity at this time because he was  
17 there from approximately, the statement of facts, from 2009  
18 to 2013.

19 What was the reason his spouse was at a meeting  
20 with an employee of the Base? We are not talking about a  
21 private company now with officers. Was there any reason why  
22 a spouse would be there?

23 THE WITNESS: I don't know. The e-mail was sent by  
24 Phil Mearing, and it said something to the effect of, would  
25 like to have dinner with you and your wife. Let us know the

1     soonest. We need to lock in our sitter. And that e-mail  
2     was sent at 2:30 on the 5th of March, and by 2:36  
3     Mr. Hutsenpiller had replied that they'd attend.

4     BY MR. SALSBURY:

5     Q. And it was Mr. Hutsenpiller who chose what items he  
6     wanted to receive?

7     A. Yes, sir.

8     Q. And would he have known those items were going to be paid  
9     for out of government funds?

10    A. Yes, sir.

11    Q. All right. Now, moving to the next individual, Corey  
12    Creek, with regard to the scheme to provide Mr. Hutsenpiller  
13    with illegal gratuities, I think you've mentioned that  
14    already --

15    A. Yes, sir.

16    Q. -- when you gave your answer regarding Mr. Olszewski; is  
17    that correct?

18    A. Yes, sir.

19    Q. So Mr. Creek participated in that scheme?

20    A. Yes, sir. We followed e-mails of Mr. Creek conducting  
21    the research to include e-mails of Mr. Creek procuring cell  
22    phones for Mr. Hutsenpiller's personal cell phone number and  
23    his cell phone for his wife.

24    Q. And did Mr. Creek also participate in the scheme to have  
25    Global retain unexpended government funds that should have

1     been returned to the government?

2     A.   Yes, sir.  Mr. Creek was a contractor for i-Mazing  
3     Solutions, a company out of Virginia Beach.  According to  
4     interview with Mr. Olszewski, Creek's job existed solely to  
5     carry on this cottage industry.  Corey Creek, his e-mail  
6     signature was labeled financial analyst to William  
7     Hutsenpilller.  He's used a personal e-mail address to conduct  
8     business because he's a convicted felon and is unable to  
9     obtain a security clearance or a government e-mail.  So all  
10    the work that he was doing was on this AOL account.

11           Mr. Creek assisted in multiple ways in getting money  
12    into the reserves, a reserve account, to include charging  
13    fees and providing proprietary government information to  
14    company fitting.  An example would be in this case with the  
15    Transtecs, the Seaport-E is an overarching contract, and when  
16    a company is awarded the contract on that, they can have  
17    multiple prime contractors, and in this case Transtecs was  
18    one of those multiple prime contractors.

19           Now, the way the process works is that, yes, you are  
20    awarded a contract, but you're not guaranteed work.  Work has  
21    to be added onto the contract via technical direction letter  
22    or a TDL, and the TDLs contain statement of work, location of  
23    work, hours, the nuts and bolts of the work to be done.

24           So that has to be bid on.  Part of Corey Creek's job  
25    was to create an independent government estimate.  The

1 independent government estimate is utilized by the government  
2 to determine if a bid is fair and reasonable. So, for  
3 example, if Creek created an IGE for \$100,000 worth of work,  
4 that's what the government is determined it's going to be,  
5 fair and reasonable, for a particular TDL.

6           However, say a company wants to bid \$70,000, they  
7 look at the TDL and say it's \$70,000. Well, by Corey  
8 providing Ken Deines and Global the TDL or the IGE, they can  
9 now bid \$100,000, and, therefore, cost the government \$30,000  
10 more dollars which can be funneled into the reserves.  
11 Another thing that Corey Creek was involved in was a 3 or 4  
12 percent fee was tacked on by Mr. Hutsenpiller on contracts  
13 that were bid.

14           Typically, the command or the sponsor didn't know  
15 that this fee was being added onto the contract. Now, there  
16 is not a contract line item for fees, and most of the time,  
17 through the e-mail review, we could see Corey Creek  
18 conversing with Ken Deines and Global, adding the fee within  
19 the travel line item on the contract or in the labor line  
20 item. So this fee would be hidden in the contract.

21           Once it's awarded, the money trickled down to  
22 Global. Global would remove that 3 or 4 percent, move that  
23 to the reserves, and then that reserve account again has  
24 money in it that can be used at William's direction.

25           THE COURT: So when you say at William's direction,

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1 he was directing who?

2 THE WITNESS: William Hutsenpiller or Olszewski, or  
3 a lot of time William Hutsenpiller through Joe Olszewski,  
4 would say, you know, release funding, and they would send an  
5 e-mail, typically to Ken Deines at Global Services to  
6 release money out of reserves to make different purchases.

7 THE COURT: Who would they release it to, do you  
8 know?

9 THE WITNESS: It would depend.

10 THE COURT: They were different?

11 THE WITNESS: Yes. It would depend, ma'am.

12 THE COURT: Go ahead.

13 BY MR. SALSBURY:

14 Q. So when you use the term reserves or reserve fund, you're  
15 talking about the unexpended government funds that they  
16 should not have had?

17 A. Yes, sir.

18 Q. All right. And was it Mr. Hutsenpiller who added on this  
19 non-legitimate 3 or 4 percent fee?

20 A. Yes, sir.

21 Q. That was his idea?

22 A. Yes, sir. It was done by Steve Parisi or Joe Olszewski,  
23 but Parisi, Laluz, Olszewski, Deines all stated any direction  
24 coming from Olszewski was taken as if it was coming from  
25 Hutsenpiller.



1 Q. Let's go to the third individual, Steve Parisi. I think,  
2 again, you've touched on his participation in the illegal  
3 gratuity scheme, but if you could briefly summarize it again.

4 A. Yes, sir. Steve Parisi was involved on the front end of  
5 it in conducting the market research for the items that were  
6 purchased. He would determine what the cost would be, where  
7 it should be purchased, send that information to Olszewski  
8 who would forward it to Global where it was purchased, the  
9 amount deducted from the reserves and then shipped to  
10 Mr. Parisi.

11 Again, Mr. Parisi has an IT background. He would  
12 set up the iPhones, the computers, and things like that, and  
13 then would ship the items from him, from his home to Virginia  
14 where they were delivered to William by Global or Corey  
15 Creek.

16 Q. All right. And did Mr. Parisi also participate in the  
17 scheme to have Global retain the unexpended government funds?

18 A. Yes, sir, he did. Steve Parisi worked as a contractor,  
19 first for VSE Corp. and then for Global Services. According  
20 to Mr. Parisi, his work was solely in support of  
21 Mr. Hutsenpiller. It wasn't conducting normal day-to-day  
22 business for the other companies. He worked as Joe  
23 Olszewski's assistant. He controlled all the spreadsheets  
24 that the cottage industry was run off of.

25 When a contract was awarded, it would be added to

1 the spreadsheets. Parisi would track when money was deducted  
2 from different contracts. He would also, when a contract  
3 would expire, and there would be money left over, Parisi  
4 would create the documents for the recoup, which is the term  
5 that the cottage industry used for taking money that should  
6 have been returned to the government and keeping it.

7           So you would treat documents that would cause that  
8 extra money to be paid to Global and put into the reserves.  
9 On a nearly weekly basis, he was comparing these spreadsheets  
10 to documentation held by Ken Deines at Global to ensure that  
11 it was accurate and that they had the accurate amount of  
12 money for the way that the contracts were running.

13 Q. All right. Then the fourth individual I'd like you to  
14 discuss is Sigfredo Laluz. Did he participate, first in the  
15 scheme to have Global retain the unexpended government funds?

16 A. Yes, sir. Fred Laluz was a formal government employee.  
17 He worked in Pennsylvania. At one point in 2010,  
18 approximately, he was approached by Joe Olszewski and asked  
19 if he wanted to work for Global with the caveat that he would  
20 have to bring the work that he has -- that the government  
21 over to Global. He accepted. He did participate in helping  
22 get money into the reserves, and I'll give you an example of  
23 that.

24           On April 20th of 2012, an e-mail conversation  
25 occurred between Ken Deines and Phil Mearing in which Deines

1 was relaying a conversation that he had had with Joe  
2 Olszewski. Deines stated Olszewski wanted Global to create a  
3 bid for new work for as close to 3 million as he possibly  
4 could, and that William Hutsenpiller has zero tolerance for  
5 this not to happen.

6 Mr. Mearing asked about a statement of work, and  
7 Mr. Deines replied that Mr. Olszewski said that there were 78  
8 documents on his desk already that had been completed by  
9 Laluz and his gang that could be used as deliverables on the  
10 contract. Approximately five days later, there was an e-mail  
11 between Phil Mearing and Fred Laluz in which Mearing asked  
12 for copies of these documents. Laluz provided to and said  
13 these are more like statements of work than actual  
14 assessments, which is what the contract was calling for.

15 Later that day Mr. Mearing e-mailed with Ken Deines,  
16 and he agreed that there were more statements of work than  
17 assessments, and that they would need to be repurposed so  
18 they could be used.

19 Q. Well, what's the difference, so the Court understands,  
20 between an assessment and a statement of work?

21 A. The assessment -- the statement of work was for -- Fred  
22 Laluz's job was to go to a command building, like a classroom  
23 and say, all this stuff needs to be done, like we need new  
24 lights, we need a desk, we need new air conditioning,  
25 whatever, and that would come up in the statement of work.

1           Then if I'm understanding correctly, once the  
2 statement of work was accepted, its assessment was completed  
3 to say that, yes, this was done, that was done. And what  
4 happened in this particular case was that documents that were  
5 used on a 2011 contract for VSE for, let's just say classroom  
6 A --

7 Q. Is VSE a different contractor?

8 A. Yes, sir. VSE is a contractor based out of Alexandria, I  
9 believe. What happened was on that contract classroom A was  
10 to have a new light, a new desk, a new this, a new that.  
11 Well, that work was completed. Now, when it came to 2012,  
12 the same exact document for that classroom that had already  
13 been completed is being submitted by Fred Laluz. The date is  
14 being changed. So a false document is being submitted again  
15 to Global to be submitted to the government in order to get  
16 money into the reserves.

17 Q. Was Mr. Hutsenpiller aware of these false documents?

18 A. Mr. Hutsenpiller was the one who requested for this bid  
19 to come through for as close to 3 million as possible, and  
20 the eventual bid that was submitted, I believe it was April  
21 27th of 2012 by Global, was for 2.97 million, and Ken Deines  
22 stated that that was as close as possible that he could get  
23 to the 3 million number requested by Hutsenpiller.

24 Q. And it was Laluz who changed the dates?

25 A. Yes, sir. He changed the dates on the various

1 assessments and then were submitted, and eventually that  
2 money was put into the reserves.

3 Q. Did Mr. Laluz participate in the scheme to provide  
4 Mr. Hutsenpiller with illegal gratuities?

5 A. Not in the same way that the other individuals that were  
6 mentioned. He didn't have a role with electronics. He did  
7 provide Mr. Hutsenpiller with some gift certificates, bottle  
8 of wine, dinner, small things like that.

9 Q. In that instance regarding Mr. Laluz, was that out of  
10 Mr. Laluz's own pocket?

11 A. Yes. That's what he said.

12 Q. The other gratuities were paid out of government funds,  
13 correct?

14 A. Yes, sir.

15 Q. Did one or more of these four persons receive immunity  
16 from the government in exchange for their cooperation?

17 A. Yes, sir. Mr. Laluz and Mr. Olszewski both received  
18 immunity.

19 MR. SALSBURY: All right. Thank you, Agent Lanter.

20 THE COURT: So we have Mr. Olszewski, Mr. Creek,  
21 Mr. Parisi, Mr. Laluz, Mr. Deines, Mr. Mearing, and  
22 Mr. Hutsenpiller, all involved in all of this?

23 THE WITNESS: Yes, ma'am.

24 MR. SALSBURY: Thank you. Answer any questions  
25 Mr. Woodward may have.

1 MR. WOODWARD: I don't have any questions, Your  
2 Honor.

3 THE COURT: All right. Then you may step down.

4 THE WITNESS: Thank you, ma'am.

5 (Witness excused.)

6 MR. SALSBURY: Court want additional argument?

7 THE COURT: I want to ask do you have any further  
8 evidence?

9 MR. SALSBURY: No, Your Honor.

10 THE COURT: Counsel, this is the way that the Court  
11 deems it appropriate to proceed at this juncture. This is  
12 quite a bit of additional factual information that the Court  
13 has heard through Mr. Lanter. Consequently, what I'm going  
14 to direct you to do is to file supplemental position papers  
15 with suggested findings of fact and conclusions based on  
16 those facts as to the applicable guideline.

17 The issue here is whether or not this individual  
18 qualifies factually under the guidelines on those findings  
19 of fact to be an organizer or a leader. It's obviously an  
20 important finding here because other matters could transpire  
21 from the findings. So it's a lot of information. It is a  
22 finding that could be dispositive of other matters, but it's  
23 important that it be made, and it be made based upon all of  
24 the information before the Court, in other words, the  
25 presentence report, the statement of facts, and this

1 testimony. Obviously, if you need to, you can have the  
2 testimony transcribed. That's up to you.

3 I've taken very copious notes during the  
4 proceeding, as I'm sure you have. So we will do that. We  
5 will reconvene on the sentencing because I have to make this  
6 finding first from which flows the other guideline findings,  
7 or the guideline calculation, from which then flows a  
8 sentence, from which then flows a potential reduction.

9 I have not yet granted the 5K1.1 motion. You've  
10 got a lot of different components here. You've got first  
11 the proper determination of the guidelines and this  
12 defendant's role, his acceptance of responsibility. I  
13 haven't ruled on that motion yet, the actual sentence that  
14 would be imposed under the guidelines, and then I will  
15 proceed to argument on the 5K1.1, and if I grant that  
16 motion, any reduction thereon.

17 MR. SALSURY: Your Honor, before we adjourn may I  
18 confer briefly with Mr. Woodward?

19 THE COURT: Yes.

20 MR. SALSURY: Thank you, Your Honor.

21 THE COURT: All right.

22 MR. WOODWARD: What is the timeline to submit our  
23 authorities, Your Honor?

24 THE COURT: I'm going to look at that. How long do  
25 you think you need?

1           MR. SALSBUURY: I do intend to order the transcript.  
2 I don't know how quickly that can be provided. I can order  
3 it on an expedited basis.

4           THE COURT: That's fine. You can order it that  
5 way, but I don't want to push a court reporter on something  
6 unless it's time sensitive. I understand. So we are  
7 planning on ordering a transcript. They should be  
8 simultaneous. There is nothing for one person to respond to  
9 the other. It's what you propose and the conclusion. It's  
10 not a response, he said/she said type of thing. It's  
11 simply, this is an amended position paper.

12           MR. WOODWARD: Amended position paper.

13           THE COURT: Yes. I think it is a supplemental  
14 position paper initially. So you can either call it a  
15 supplemental. You're not amending anything you've done,  
16 you're adding to it, so let's call it a supplemental  
17 position paper with proposed findings of facts and  
18 conclusion thereon, and let's set the continuance of the  
19 sentencing date, then we can work backwards.

20           MR. WOODWARD: Your Honor, in that regard, I don't  
21 have my phone in here with my calendar on it. If the Court  
22 proposes a date, is it okay if I call my office to clear it?  
23 I don't know what you're looking at, but I don't have it  
24 memorized. I know some of my trials.

25           THE COURT: Let me suggest some, and then we will



1 go from there.

2 MR. WOODWARD: Okay.

3 THE COURT: The Court has either Thursday, October  
4 12th; or Friday, October 13th at 2:00.

5 MR. SALSBUURY: I believe I have a sentencing before  
6 you on October 13th, although I don't remember the time.

7 THE COURT: You do, but it's in the morning.

8 MR. SALSBUURY: Okay.

9 THE COURT: That's why I did the afternoon. You  
10 have a disposition in United States v. Mr. Withers, and  
11 that's at 11:00 that morning. That's why I said 2:00.

12 MR. SALSBUURY: Then I'm free.

13 MR. WOODWARD: May I use the phone, Your Honor, to  
14 see whether I have those dates?

15 THE COURT: Yes.

16 MR. WOODWARD: I'm clear either day. I don't know  
17 which one you were doing.

18 THE COURT: Either one are fine with the Court.

19 MR. WOODWARD: 13th, Your Honor.

20 THE COURT: Perhaps Mr. Salsbury can make one trip  
21 over to the courthouse that day. So we will set it for  
22 2:00, Friday, October 13th. I'm going to work backwards now  
23 consistent with deadlines. So let's look at some deadlines  
24 here. You all can have two weeks. That should be more than  
25 sufficient time, until Thursday, October 5th. So that way

1 there will be time for you to get a transcript, and,  
2 actually, you can have until close of business Friday,  
3 October 6. Close of business means 5:00 to the Court, not  
4 electronic close of business midnight.

5 So 5:00 October 6 you can make those filings, and  
6 then that gives a week before the scheduled sentencing.

7 Counsel, is there anything that the Court needs to  
8 take up further today in this case?

9 MR. SALSBUURY: No, Your Honor.

10 MR. WOODWARD: No, ma'am.

11 THE COURT: All right. Then we are in recess on  
12 this case. Thank you.

13 CERTIFICATION

14  
15 I certify that the foregoing is a correct transcript  
16 from the record of proceedings in the above-entitled matter.

17  
18  
19 X\_\_\_\_\_/s/\_\_\_\_\_  
20

Jody A. Stewart

21 X\_\_\_\_9-27-2017 \_\_\_\_\_x

22 Date  
23  
24  
25